

**ASSEMBLY BILL**

**No. 1033**

**Introduced by Assembly Member Floyd**

February 25, 1999

---

---

An act to amend Section 12020 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as introduced, Floyd. Firearms: short-barreled shotgun.

(1) Existing law prohibits the manufacture, import, sale, gift, loan, or possession of various weapons and related products, including any explosive substance other than fixed ammunition. These provisions define a short-barreled shotgun as, among other things, a firearm that is redesigned or designed to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length, or a firearm which has an overall length of less than 26 inches and that is designed or redesigned to fire a fixed shotgun shell.

This bill instead would define a short-barreled shotgun as, among other things, a shotgun having a barrel or barrels of less than 18 inches in length or a shotgun having an overall length of less than 26 inches.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12020 of the Penal Code is  
2 amended to read:

3 12020. (a) Any person in this state who manufactures  
4 or causes to be manufactured, imports into the state,  
5 keeps for sale, or offers or exposes for sale, or who gives,  
6 lends, or possesses any cane gun or wallet gun, any  
7 undetectable firearm, any firearm which is not  
8 immediately recognizable as a firearm, any camouflaging  
9 firearm container, any ammunition which contains or  
10 consists of any fléchette dart, any bullet containing or  
11 carrying an explosive agent, any ballistic knife, any  
12 multiburst trigger activator, any nunchaku, any  
13 short-barreled shotgun, any short-barreled rifle, any  
14 metal knuckles, any belt buckle knife, any leaded cane,  
15 any zip gun, any shuriken, any unconventional pistol, any  
16 lipstick case knife, any cane sword, any shobi-zue, any air  
17 gauge knife, any writing pen knife, any metal military  
18 practice handgrenade or metal replica handgrenade, or  
19 any instrument or weapon of the kind commonly known  
20 as a blackjack, slungshot, billy, sandclub, sap, or sandbag,  
21 or who carries concealed upon his or her person any  
22 explosive substance, other than fixed ammunition, or who  
23 carries concealed upon his or her person any dirk or  
24 dagger is punishable by imprisonment in a county jail not  
25 exceeding one year or in the state prison. However, a first  
26 offense involving any metal military practice  
27 handgrenade or metal replica handgrenade shall be  
28 punishable only as an infraction unless the offender is an  
29 active participant in a criminal street gang as defined in  
30 the Street Terrorism and Enforcement and Prevention  
31 Act (Chapter 11 (commencing with Section 186.20) of  
32 Title 7 of Part 1). A bullet containing or carrying an  
33 explosive agent is not a destructive device as that term is  
34 used in Section 12301.

35 (b) Subdivision (a) does not apply to any of the  
36 following:

37 (1) The sale to, purchase by, or possession of  
38 short-barreled shotguns or short-barreled rifles by police

1 departments, sheriffs' offices, marshals' offices, the  
2 California Highway Patrol, the Department of Justice, or  
3 the military or naval forces of this state or of the United  
4 States for use in the discharge of their official duties or the  
5 possession of short-barreled shotguns and short-barreled  
6 rifles by regular, salaried, full-time members of a police  
7 department, sheriff's office, marshal's office, the  
8 California Highway Patrol, or the Department of Justice  
9 when on duty and the use is authorized by the agency and  
10 is within the course and scope of their duties.

11 (2) The manufacture, possession, transportation or  
12 sale of short-barreled shotguns or short-barreled rifles  
13 when authorized by the Department of Justice pursuant  
14 to Article 6 (commencing with Section 12095) of this  
15 chapter and not in violation of federal law.

16 (3) The possession of a nunchaku on the premises of a  
17 school which holds a regulatory or business license and  
18 teaches the arts of self-defense.

19 (4) The manufacture of a nunchaku for sale to, or the  
20 sale of a nunchaku to, a school which holds a regulatory  
21 or business license and teaches the arts of self-defense.

22 (5) Any antique firearm. For purposes of this section,  
23 "antique firearm" means any firearm not designed or  
24 redesigned for using rimfire or conventional center fire  
25 ignition with fixed ammunition and manufactured in or  
26 before 1898 (including any matchlock, flintlock,  
27 percussion cap, or similar type of ignition system or  
28 replica thereof, whether actually manufactured before or  
29 after the year 1898) and also any firearm using fixed  
30 ammunition manufactured in or before 1898, for which  
31 ammunition is no longer manufactured in the United  
32 States and is not readily available in the ordinary channels  
33 of commercial trade.

34 (6) Tracer ammunition manufactured for use in  
35 shotguns.

36 (7) Any firearm or ammunition which is a curio or relic  
37 as defined in Section 178.11 of Title 27 of the Code of  
38 Federal Regulations and which is in the possession of a  
39 person permitted to possess the items pursuant to  
40 Chapter 44 (commencing with Section 921) of Title 18 of

1 the United States Code and the regulations issued  
2 pursuant thereto. Any person prohibited by Section  
3 12021, 12021.1, or 12101 of this code or Section 8100 or 8103  
4 of the Welfare and Institutions Code from possessing  
5 firearms or ammunition who obtains title to these items  
6 by bequest or intestate succession may retain title for not  
7 more than one year, but actual possession of these items  
8 at any time is punishable pursuant to Section 12021,  
9 12021.1, or 12101 of this code or Section 8100 or 8103 of the  
10 Welfare and Institutions Code. Within the year the  
11 person shall transfer title to the firearms or ammunition  
12 by sale, gift, or other disposition. Any person who violates  
13 this paragraph is in violation of subdivision (a).

14 (8) Any other weapon as defined in subsection (e) of  
15 Section 5845 of Title 26 of the United States Code and  
16 which is in the possession of a person permitted to possess  
17 the weapons pursuant to the federal Gun Control Act of  
18 1968 (Public Law 90-618), as amended, and the  
19 regulations issued pursuant thereto. Any person  
20 prohibited by Section 12021, 12021.1, or 12101 of this code  
21 or Section 8100 or 8103 of the Welfare and Institutions  
22 Code from possessing these weapons who obtains title to  
23 these weapons by bequest or intestate succession may  
24 retain title for not more than one year, but actual  
25 possession of these weapons at any time is punishable  
26 pursuant to Section 12021, 12021.1, or 12101 of this code or  
27 Section 8100 or 8103 of the Welfare and Institutions Code.  
28 Within the year, the person shall transfer title to the  
29 weapons by sale, gift, or other disposition. Any person  
30 who violates this paragraph is in violation of subdivision  
31 (a). The exemption provided in this subdivision does not  
32 apply to pen guns.

33 (9) Instruments or devices that are possessed by  
34 federal, state, and local historical societies, museums, and  
35 institutional collections which are open to the public,  
36 provided that these instruments or devices are properly  
37 housed, secured from unauthorized handling, and, if the  
38 instrument or device is a firearm, unloaded.

39 (10) Instruments or devices, other than short-barreled  
40 shotguns or short-barreled rifles, that are possessed or



1 utilized during the course of a motion picture, television,  
2 or video production or entertainment event by an  
3 authorized participant therein in the course of making  
4 that production or event or by an authorized employee  
5 or agent of the entity producing that production or event.

6 (11) Instruments or devices, other than short-barreled  
7 shotguns or short-barreled rifles, that are sold by,  
8 manufactured by, exposed or kept for sale by, possessed  
9 by, imported by, or lent by persons who are in the  
10 business of selling instruments or devices listed in  
11 subdivision (a) solely to the entities referred in  
12 paragraphs (9) and (10) when engaging in transactions  
13 with those entities.

14 (12) The sale to, possession of, or purchase of any  
15 weapon, device, or ammunition, other than a  
16 short-barreled rifle or short-barreled shotgun, by any  
17 federal, state, county, city and county, or city agency that  
18 is charged with the enforcement of any law for use in the  
19 discharge of their official duties, or the possession of any  
20 weapon, device, or ammunition, other than a  
21 short-barreled rifle or short-barreled shotgun, by peace  
22 officers thereof when on duty and the use is authorized  
23 by the agency and is within the course and scope of their  
24 duties.

25 (13) Weapons, devices, and ammunition, other than a  
26 short-barreled rifle or short-barreled shotgun, that are  
27 sold by, manufactured by, exposed, or kept for sale by,  
28 possessed by, imported by, or lent by, persons who are in  
29 the business of selling weapons, devices, and ammunition  
30 listed in subdivision (a) solely to the entities referred to  
31 in paragraph (12) when engaging in transactions with  
32 those entities.

33 (14) The manufacture for, sale to, exposing or keeping  
34 for sale to, importation of, or lending of wooden clubs or  
35 batons to special police officers or uniformed security  
36 guards authorized to carry any wooden club or baton  
37 pursuant to Section 12002 by entities that are in the  
38 business of selling wooden batons or clubs to special police  
39 officers and uniformed security guards when engaging in  
40 transactions with those persons.

1 (15) Any plastic toy handgrenade, or any metal  
2 military practice handgrenade or metal replica  
3 handgrenade that is a relic, curio, memorabilia, or display  
4 item, that is filled with a permanent inert substance or  
5 that is otherwise permanently altered in a manner that  
6 prevents ready modification for use as a grenade.

7 (16) Any instrument, ammunition, weapon, or device  
8 listed in subdivision (a) that is not a firearm that is found  
9 and possessed by a person who meets all of the following:

10 (A) The person is not prohibited from possessing  
11 firearms or ammunition pursuant to Section 12021 or  
12 12021.1 or paragraph (1) of subdivision (b) of Section  
13 12316 of this code or Section 8100 or 8103 of the Welfare  
14 and Institutions Code.

15 (B) The person possessed the instrument,  
16 ammunition, weapon, or device no longer than was  
17 necessary to deliver or transport the same to a law  
18 enforcement agency for that agency's disposition  
19 according to law.

20 (C) If the person is transporting the listed item, he or  
21 she is transporting the listed item to a law enforcement  
22 agency for disposition according to law.

23 (17) Any firearm, other than a short-barreled rifle or  
24 short-barreled shotgun, that is found and possessed by a  
25 person who meets all of the following:

26 (A) The person is not prohibited from possessing  
27 firearms or ammunition pursuant to Section 12021 or  
28 12021.1 or paragraph (1) of subdivision (b) of Section  
29 12316 of this code or Section 8100 or 8103 of the Welfare  
30 and Institutions Code.

31 (B) The person possessed the firearm no longer than  
32 was necessary to deliver or transport the same to a law  
33 enforcement agency for that agency's disposition  
34 according to law.

35 (C) If the person is transporting the firearm, he or she  
36 is transporting the firearm to a law enforcement agency  
37 for disposition according to law.

38 (D) Prior to transporting the firearm to a law  
39 enforcement agency, he or she has given prior notice to  
40 that law enforcement agency that he or she is

1 transporting the firearm to that law enforcement agency  
2 for disposition according to law.

3 (E) The firearm is transported in a locked container as  
4 defined in subdivision (d) of Section 12026.2.

5 (18) The possession of any weapon, device, or  
6 ammunition, by a forensic laboratory or any authorized  
7 agent or employee thereof in the course and scope of his  
8 or her authorized activities.

9 (c) (1) As used in this section, a “short-barreled  
10 shotgun” means any of the following:

11 (A) ~~A firearm which is designed or redesigned to fire~~  
12 ~~a fixed shotgun shell and~~ *shotgun* having a barrel or  
13 barrels of less than 18 inches in length.

14 (B) ~~A firearm which~~ *shotgun that* has an overall length  
15 of less than 26 inches and ~~which is designed or redesigned~~  
16 ~~to fire a fixed shotgun shell.~~

17 (C) Any weapon made from a shotgun (whether by  
18 alteration, modification, or otherwise) if that weapon, as  
19 modified, has an overall length of less than 26 inches or a  
20 barrel or barrels of less than 18 inches in length.

21 (D) Any device which may be readily restored to fire  
22 a fixed shotgun shell which, when so restored, is a device  
23 defined in subparagraphs (A) to (C), inclusive.

24 (E) Any part, or combination of parts, designed and  
25 intended to convert a device into a device defined in  
26 subparagraphs (A) to (C), inclusive, or any combination  
27 of parts from which a device defined in subparagraphs  
28 (A) to (C), inclusive, can be readily assembled if those  
29 parts are in the possession or under the control of the  
30 same person.

31 (2) As used in this section, a “short-barreled rifle”  
32 means any of the following:

33 (A) A rifle having a barrel or barrels of less than 16  
34 inches in length.

35 (B) A rifle with an overall length of less than 26 inches.

36 (C) Any weapon made from a rifle (whether by  
37 alteration, modification, or otherwise) if that weapon as  
38 modified has an overall length of less than 26 inches or a  
39 barrel or barrels of less than 16 inches in length.

1 (D) Any device which may be readily restored to fire  
2 a fixed cartridge which, when so restored, is a device  
3 defined in subparagraphs (A) to (C), inclusive.

4 (E) Any part, or combination of parts, designed and  
5 intended to convert a device into a device defined in  
6 subparagraphs (A) to (C), inclusive, or any combination  
7 of parts from which a device defined in subparagraphs  
8 (A) to (C), inclusive, may be readily assembled if those  
9 parts are in the possession or under the control of the  
10 same person.

11 (3) As used in this section, a “nunchaku” means an  
12 instrument consisting of two or more sticks, clubs, bars or  
13 rods to be used as handles, connected by a rope, cord,  
14 wire, or chain, in the design of a weapon used in  
15 connection with the practice of a system of self-defense  
16 such as karate.

17 (4) As used in this section, a “wallet gun” means any  
18 firearm mounted or enclosed in a case, resembling a  
19 wallet, designed to be or capable of being carried in a  
20 pocket or purse, if the firearm may be fired while  
21 mounted or enclosed in the case.

22 (5) As used in this section, a “cane gun” means any  
23 firearm mounted or enclosed in a stick, staff, rod, crutch,  
24 or similar device, designed to be, or capable of being used  
25 as, an aid in walking, if the firearm may be fired while  
26 mounted or enclosed therein.

27 (6) As used in this section, a “fléchette dart” means a  
28 dart, capable of being fired from a firearm, which  
29 measures approximately one inch in length, with tail fins  
30 which take up five-sixteenths of an inch of the body.

31 (7) As used in this section, “metal knuckles” means  
32 any device or instrument made wholly or partially of  
33 metal which is worn for purposes of offense or defense in  
34 or on the hand and which either protects the wearer’s  
35 hand while striking a blow or increases the force of impact  
36 from the blow or injury to the individual receiving the  
37 blow. The metal contained in the device may help  
38 support the hand or fist, provide a shield to protect it, or  
39 consist of projections or studs which would contact the  
40 individual receiving a blow.



(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

1 (11) As used in this section, a “shuriken” means any  
2 instrument, without handles, consisting of a metal plate  
3 having three or more radiating points with one or more  
4 sharp edges and designed in the shape of a polygon,  
5 trefoil, cross, star, diamond, or other geometric shape for  
6 use as a weapon for throwing.

7 (12) As used in this section, an “unconventional pistol”  
8 means a firearm that does not have a rifled bore and has  
9 a barrel or barrels of less than 18 inches in length or has  
10 an overall length of less than 26 inches.

11 (13) As used in this section, a “belt buckle knife” is a  
12 knife which is made an integral part of a belt buckle and  
13 consists of a blade with a length of at least 2½ inches.

14 (14) As used in this section, a “lipstick case knife”  
15 means a knife enclosed within and made an integral part  
16 of a lipstick case.

17 (15) As used in this section, a “cane sword” means a  
18 cane, swagger stick, stick, staff, rod, pole, umbrella, or  
19 similar device, having concealed within it a blade that  
20 may be used as a sword or stiletto.

21 (16) As used in this section, a “shobi-zue” means a staff,  
22 crutch, stick, rod, or pole concealing a knife or blade  
23 within it which may be exposed by a flip of the wrist or  
24 by a mechanical action.

25 (17) As used in this section, a “leaded cane” means a  
26 staff, crutch, stick, rod, pole, or similar device,  
27 unnaturally weighted with lead.

28 (18) As used in this section, an “air gauge knife” means  
29 a device that appears to be an air gauge but has concealed  
30 within it a pointed, metallic shaft that is designed to be a  
31 stabbing instrument which is exposed by mechanical  
32 action or gravity which locks into place when extended.

33 (19) As used in this section, a “writing pen knife”  
34 means a device that appears to be a writing pen but has  
35 concealed within it a pointed, metallic shaft that is  
36 designed to be a stabbing instrument which is exposed by  
37 mechanical action or gravity which locks into place when  
38 extended or the pointed, metallic shaft is exposed by the  
39 removal of the cap or cover on the device.



1 (20) As used in this section, a “rifle” means a weapon  
2 designed or redesigned, made or remade, and intended  
3 to be fired from the shoulder and designed or redesigned  
4 and made or remade to use the energy of the explosive in  
5 a fixed cartridge to fire only a single projectile through a  
6 rifled bore for each single pull of the trigger.

7 (21) As used in this section, a “shotgun” means a  
8 weapon designed or redesigned, made or remade, and  
9 intended to be fired from the shoulder and designed or  
10 redesigned and made or remade to use the energy of the  
11 explosive in a fixed shotgun shell to fire through a smooth  
12 bore either a number of projectiles (ball shot) or a single  
13 projectile for each pull of the trigger.

14 (22) As used in this section, an “undetectable firearm”  
15 means any weapon which meets one of the following  
16 requirements:

17 (A) When, after removal of grips, stocks, and  
18 magazines, it is not as detectable as the Security  
19 Exemplar, by walk-through metal detectors calibrated  
20 and operated to detect the Security Exemplar.

21 (B) When any major component of which, when  
22 subjected to inspection by the types of X-ray machines  
23 commonly used at airports, does not generate an image  
24 that accurately depicts the shape of the component.  
25 Barium sulfate or other compounds may be used in the  
26 fabrication of the component.

27 (C) For purposes of this paragraph, the terms  
28 “firearm,” “major component,” and “Security Exemplar”  
29 have the same meanings as those terms are defined in  
30 Section 922 of Title 18 of the United States Code.

31 All firearm detection equipment newly installed in  
32 nonfederal public buildings in this state shall be of a type  
33 identified by either the United States Attorney General,  
34 the Secretary of Transportation, or the Secretary of the  
35 Treasury, as appropriate, as available state-of-the-art  
36 equipment capable of detecting an undetectable firearm,  
37 as defined, while distinguishing innocuous metal objects  
38 likely to be carried on one’s person sufficient for  
39 reasonable passage of the public.

1 (23) As used in this section, a “multiburst trigger  
2 activator” means one of the following devices:

3 (A) A device designed or redesigned to be attached  
4 to a semiautomatic firearm which allows the firearm to  
5 discharge two or more shots in a burst by activating the  
6 device.

7 (B) A manual or power-driven trigger activating  
8 device constructed and designed so that when attached  
9 to a semiautomatic firearm it increases the rate of fire of  
10 that firearm.

11 (24) As used in this section, a “dirk” or “dagger” means  
12 a knife or other instrument with or without a handguard  
13 that is capable of ready use as a stabbing weapon that may  
14 inflict great bodily injury or death. A nonlocking folding  
15 knife, a folding knife that is not prohibited by Section  
16 653k, or a pocketknife is capable of ready use as a stabbing  
17 weapon that may inflict great bodily injury or death only  
18 if the blade of the knife is exposed and locked into  
19 position.

20 (d) Knives carried in sheaths which are worn openly  
21 suspended from the waist of the wearer are not concealed  
22 within the meaning of this section.

